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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/402,059	02/14/2000	MARIA RAIDEL	KCC-13368.10	5484

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

25

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/402,059

Applicant(s)

RAIDEL ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 45-111 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45-49, 57-86 and 94-111 is/are rejected.
- 7) ☒ Claim(s) 50-56 and 87-93 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 45-49, 57-59, 62, 68-69, 71, 73-75, 82-86, 94-96, 102-105, and 107-111 are rejected under 35 U.S.C. 102(b) as being anticipated by Kellenberger (EP 0 339 461).

With respect to claims 45, 46, 57, 59, 62, 68, 69, 82, 83, 94, and 102, Kellenberger discloses an absorbent article 10 having a liquid permeable layer 14, a liquid impermeable layer 12, and an absorbent body 16, as shown in figure 1. The absorbent body 16 comprises absorbent material, fibers 18 and particles 20, as shown in figure 2. The absorbent material is capable of absorbing more than 10mL of water per gram of absorbent material under conditions where no volume expansion is possible. The absorbent material is described on page 5, lines 30-44, as able to absorb 27 mL per gram of absorbent material under a pressure of 21,000 dynes per cm<sup>2</sup>, or under such a pressure that volume expansion is not possible.

With respect to claims 47-49 and 84-86, Kellenberger discloses the particles being spherical and having a diameter of at least 200 microns, as described on page 6, lines 37-41.

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With respect to claims 58 and 95, Kellenberger discloses on page 5, line 6, polyacrylate.

With respect to claim 71, Kellenberger discloses on page 4, lines 40-47, wood pulp material, which is a cellulose material.

With respect to claims 73-75, Kellenberger discloses on page 5, lines 10-13, 10-95% fibrous material and 5-90% absorbent material.

With respect to claim 96, Kellenberger discloses the length and width of the absorbent body 16 being less than that of the article 10, as shown in figure 1.

With respect to claims 103-105 and 107-108, Kellenberger discloses on page 2, lines 5-6, diapers, adult incontinence pads, sanitary napkins, and the like. A sanitary napkin is a feminine hygiene article and a panty liner.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 60, 61, 76, 78, and 79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kellenberger (EP 0 339 461) in view of LeMahieu et al. (5,904,672).

Kellenberger discloses all aspects of the claimed invention with the exception of a care substance in the absorbent body. Le Mahieu discloses the use of treated tissues that are treated with a substance that contains aloe vera, as described in column 23, line 45 to column 24, line 7. It would have been obvious to one of ordinary skill in the

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art at the time of invention to construct the absorbent body of Kellenberger with aloe vera, as taught by LeMahieu, to reduce irritation to the skin.

Claims 63 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kellenberger (EP 0 339 461) in view of Luceri (5,807,365).

With respect to claim 63, Kellenberger discloses all aspects of the claimed invention with the exception of the absorbent body being adhesively bonded to the liquid impervious layer. Luceri discloses adhesively bonding an absorbent body to a backsheet, as described in column 6, lines 20-29, which improves contact between the absorbent body and backsheet. It would have been obvious to one of ordinary skill in the art at the time of invention to adhere the absorbent body to the liquid impervious layer of Kellenberger, as taught by Luceri, to improve the contact between the absorbent body and the liquid impervious layer.

With respect to claim 64, it is the examiner's position that a seam is a line, or place of joining, and therefore the absorbent body and liquid impermeable layer are joined by an adhesive seam.

Claims 65, 66, 68, 70, and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kellenberger (EP 0 339 461) in view of Plischke et al. (5,977,014).

Kellenberger discloses all aspects of the claimed invention with the exception of a secondary storage layer including a soft absorbent material. Plischke discloses an absorbent body and secondary storage layer made of cellulose, as described in column

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16, lines 38-40, with absorbent particles located therebetween, as shown in figures 7-9.

It would have been obvious to one of ordinary skill in the art at the time of invention to make the absorbent body of Kellenberger two layers with the absorbent particles located therebetween, as taught by Plischke, to protect the particles from damage, as described by Plischke in column 5.

Claims 80 and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kellenberger (EP 0 339 461) in view of Jones, Sr. (3,794,0374).

Kellenberger discloses all aspects of the claimed invention with the exception of a treatment for a bacterial, fungicidal, or virucidal substance. Jones teaches the use of a body waste pad that is impregnated with levulinic acid and buffered with NaOH or  $\text{Na}_2\text{CO}_3$ , as described in claim 3 and column 3, lines 45-62. It would have been obvious to one of ordinary skill in the art at the time of invention to impregnate the absorbent body of Kellenberger with levulinic acid, as taught by Jones, to inhibit the formation of odors caused by the absorption of free ammonia and amines (see Jones, Sr., column 1).

Claims 97-101 and 106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kellenberger (EP 0 339 461) in view of Reising et al. (4,988,344).

With respect to claims 97 and 101, Kellenberger discloses all aspects of the claimed invention with the exception of the absorbent body having two or more chambers with a wall between the chambers. Reising discloses the use of multiple

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chambers in an absorbent body with walls between the chambers, as shown in figure 10. It would have been obvious to one of ordinary skill in the art at the time of invention to have the absorbent body of Kellenberger comprise chambers, as taught by Reising, to provide improved rates of acquisition due to reduced interference to liquid flow, as described by Reising in column 12.

With respect to claims 98-100, Reising discloses the chambers are square, as shown in figure 10, and therefore have walls that are aligned longitudinally and transversely.

With respect to claim 106, Reising shows in figures 1-8, reference numerals 56 and 57, a central aperture.

#### ***Allowable Subject Matter***

Claims 50-56 and 87-93 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

In light of the amendment, the rejection under 37 U.S.C. 112, first paragraph, is withdrawn.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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April 16, 2004



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